

What One Must Do to Obtain a Patent

By EMMETT C. HALL

THE average American starts inventing things about the age of ten, when he "thinks up" a "little jigger" consisting mostly of a bacon rind, which will more or less automatically grease the backsaw, or a "contraption" to keep the cow from switching him in the face with her tail while he milks, or a "do-funny" of blotting paper to permit him, after all, to carry his Christmas mountain pen without drowning himself in ink, or something of equal interest and, to him, importance. Later on he will mentally construct or make or compound all sorts of devices, ranging from a better nut-opener to a typewriter ribbon that carries its ink like a lamp wick carries oil, and sometimes he will even make a model, or try his process out. For a day or two he will be much excited about it and think he has a fortune in his grasp, and then either find that the thing has been on sale at the ten-cent store for years, or wear out his enthusiasm talking about it and finally let the idea die from neglect. In the vast majority of cases it doesn't make much difference, for the idea probably isn't new, even though he has never seen such a device in operation but, unquestionably, once in a while some one lets a fortune slip through his fingers in this way.

There is not one chance in a million that if you deliberately set down with the determination to think of something new that you would succeed in producing anything that had not been familiar in a similar or identical form for many years, but the thing which is the inspiration of a moment of need, mentally created to fill an actually experienced want, whether serious or trivial, may be new, and if so, the possible reward is too great to chance losing it. It is almost a certainty that if you have invented some useful, practical thing, no matter how small, insignificant and simple, or even an amusing novelty of no practical value except that it really does amuse, you will if you act wisely make a great deal of money from it. And it may be remarked right here that the small, simple, inexpensive utility is much more apt to make money for the inventor than many far more important discoveries. Games of a mechanical nature and popular appeal are almost certain money-makers.

The first thing to do, of course, is to find out if your invention is new, useful and practical. It may be possessed of two of these three qualities and, lacking the third, be worthless. For instance, it might be new and useful, but not practical by reason of its expense. Discreet inquiries among those who might know of such a thing, if it existed, will determine whether it is familiar to others even though it might not have been to you.

Any person is at liberty to inspect United States patents, but it is not convenient to the average person to do so, and even if one chanced to be in Washington, an untrained searcher would make poor progress, and the services of a patent attorney should be enlisted. It is not necessary to employ a patent attorney to secure a patent, but the Patent Office itself advises the employment of one. To the average inventor it means a saving of a little money at the very beginning, if the patent is not allowed, and may mean the difference between a valuable and a worthless patent, irrespective of the merit of the invention. At all the records of the Patent Office are at Washington, and it is there that arrangements must be made, it saves time and a round-about method to employ one of the firms located at the capital. Most of the larger firms will, without charge

or the placing of the inventor under any obligation, report as to whether, in their opinion, an invention is of a class to entitle it to patent protection, if new. This opinion does not deal with the question of novelty. If the report is that the invention does not come under any one of the classes to which patent protection is extended, there is nothing to do but drop the matter. Under the law a patent may be granted for any new and useful process, machine, article of manufacture, composition of matter, novel design. A "process" is a means used to accomplish some result, and the newness is in the means, not the result—as, for instance, a patent could be obtained upon a new means of applying the material to the backing to make linoleum. A "machine" is any mechanical construction which does something, as a steam engine, a typewriter, a phonograph, or a telephone. A phonograph record, or a new sort of key for the typewriter, for instance, would be an article of manufacture. "Composition of matter" embraces most chemical compounds, "patent medicines," metal alloys, the preparation of the materials for match-heads, but not the method by which the material is applied to the stick, and so on.

If the invention is supported by the attorney as apparently patentable, a "special search" should be ordered, to determine whether or not the invention appears to be new. This means examining all the patents that have been issued of classes analogous to your invention. The attorney will report whether the invention seems to be new and whether, in his opinion, a patent might be obtained. The attorney does not, of course, guarantee that a patent will be issued, even if the invention seems new, but long familiarity with the practices of the Patent Office enables him to judge with considerable accuracy what its action will be on a specific application. For this service most of the attorneys charge but a nominal fee, usually \$5, and the service is well worth this amount. If the report after search is unfavorable, the inventor can drop the matter, and be out only the \$5. If the report is favorable, he can go ahead with renewed hope. If no attorney is employed, there is no way (other than personal search) to determine what are the prospects of a patent being allowed except to make formal application, and this requires the payment of a fee of \$15. If the claim is rejected, this fee is lost.

Assuming a favorable report by the attorney, the next step is the formal filing of the application for patent. This is a highly important step, and the one in which the attorney is most valuable. A patent protects an invention only in so far as it is described in the specifications filed with the application for patent—this has been the invariable attitude of the courts in patent litigation. The drawing of the specifications, therefore, is of vital importance, for all possible claims must be asserted therein, no future additions or amendments being permitted. Instances are not uncommon wherein inventors have failed to so describe their inventions as to gain full protection, so that with trifling changes in details the devices have been put on the market by others, to the ruin of the original inventors. "A patent," merely, may be of no real value if its limitations are too great, and here is found the difference between a good and a poor patent attorney. The poor

attorney may not grasp the basic idea of the invention, or he may content himself with protecting petty details, or he may be too lazy or indifferent to his client's interests, may be too busy or indifferent to "fight it out" with the Patent Office. The good attorney will see to it that the specifications are the broadest possible, and will make every effort to have the patent allowed as claimed. Just how an inventor is to be able to distinguish the sheep from the goats is a problem, of course. Unless one has personal knowledge in the matter, the only thing to do is to pack out the firm of best general reputation. The application papers are sent to the inventor for signature, and if the claims made therein do not seem to him broad enough, he should ask why, and insist that they be made so if no good reason to the contrary is forthcoming.

If the invention is so simple that it can be described with unmistakable clearness, an attorney is perhaps not needed, after the search of the existing patents, but few inventions worth bothering about are of this class. The applicant for a patent is required by law not only to describe his invention fully, but particularly to point out and distinctly claim the part, improvement or combination which he claims as his invention or discovery. The rules and forms of the Patent Office are exact and rigid, and must be fully complied with. They are fully set forth in the "Rules of Practice in the United States Patent Office," a book which will be sent free of charge if a request is made to the Commissioner of Patents. This book also contains specimen specifications. All necessary blank forms will also be supplied without charge by the Patent Office.

The total government fees for a patent amount to \$35, \$15 being paid when application is made, and \$20 within six months after the allowance of the patent. Attorney's fees are usually about \$30, with an additional charge of \$5 for drawings. It is, of course, advisable to have a distinct understanding in advance as to how much the attorney proposes to charge for his services.

In the matter of time elapsing before a patent may be granted, no one attorney is better than any other, nor can any attorney hasten the process in any way. All applications are examined and passed upon in the order in which they are received, with absolute impartiality, and an application by Edison receives no more consideration than one by John Smith. An inventor should never, under any circumstances, endeavor to exert political influence, as it would be worse than useless. The time required to pass upon an application may vary anywhere from a few days to a year, according to the nature of the invention and the class in which it belongs—some class-divisions of the Patent Office are well up with their work, while others are far behind.

Patents are not granted upon any device, process or composition of matter which is intended for use in a manner or for a purpose contrary to law, as gambling equipment or food adulterations, and no application for a patent upon a perpetual motion machine will be received, unless accompanied by a working model which will actually work. Needless to say, there have been no patents issued on machines of this class. Use of an invention, by the public or in public, for two years, bars it from patent. Merely to "think of" a thing is not inventing it in the full sense, and if someone else, even afterward, gets the same idea and applies for a patent, he will be held to be the true inventor.

"WHERE do all the turkeys come from? Seems as if everyone had a turkey at Thanksgiving—where do they grow?"

Such a question is asked by many a small member of any family living in an ordinary American small town. They have seen turkeys, probably some farmer beyond the town has a flock of six or eight, but never enough to make clear why at two holidays, Thanksgiving and Christmas, they are so plentiful that almost every family can boast of one. Chickens and ducks they know to be common, but where do the turkeys come from?

And a remarkable point is the fact that not any of the members of the average dinner table can correctly answer his question.

"Oh — from the farmers," says Uncle George. But what farmers?

There are portions of the United States where turkey-raising is the chief industry. It is true that turkeys can be found in almost every vicinity, but they are not numerous. The farmers in the eastern states bordering on Canada have

gone in for turkey-raising lately, but the big turkey state is still Texas. And, in spite of the fact that hundreds of thousands of pounds of the luscious meat are sold each year for "fancy prices," turkey-raising is on the decline today.

There are several reasons for this. To begin with, turkeys are the hardest fowl to keep alive, the mortality being extremely high, and secondly, in the great grain districts, turkeys are found to be disastrous. They range through the fields and damage the crops to some

That Texas Turkey Trot

degree, which is naturally not conducive to good neighborliness. Of the six varieties popular in this country the Bronze is probably the best, the hardiest, and the heaviest. Four weeks are required for hatching and about fifty per cent of the brood lives to feather. Exposure to dampness, a sudden cold night, close confinement, improper feeding, can all be blamed for the loss of life. However, if the amount of time

The marketing season starts about the middle of November, that is, for Thanksgiving, and is fairly brisk until the latter part of December, which takes in the demand for Christmas, and also for New Year's. The farmers who have small flocks and sell to the towns near by generally get their orders direct, but the turkeys for the larger towns and cities that come to the family table by way of the butcher shops are killed, dressed, packed in refrigerator cars, and shipped away to their destinations.

Cuero, Texas, is probably the largest turkey center in the United States. It is in this town that occurs the famous annual "turkey trot," when thousands of turkeys are driven in to the town from the surrounding country. It is a day of festival, for turkey-

raising is the chief industry, and on the day they sell their flocks, the men and women of the neighborhood receive credit which will be their chief means of support for the following year. And many of them, those who raise hardy birds and devote their time exclusively to the industry, grow rich in their endeavors. Cuero boasts slaughterhouses and dressing plants, also excellent railroad facilities.

So, when you sit down to your Thanksgiving dinner you will know your turkey probably came from Texas.



Driving the holiday turkeys to market.

necessary for their care can be given the young turkeys, they can be raised.

As soon as the poults are old enough they are placed on the range, where they look after their own feeding, rustling for grasshoppers and other insects, green vegetation of almost every kind, and such nuts as chestnuts, acorns, and so on. They need a large range, since close confinement is found to be one of the reasons for losses with these birds. Turkeys are fattened